IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

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**WRIT PETITION NO : 11159 of 2004**

Between:

Mahatmudu S/o Hanumanna, Paramala Village, Gadwal Mandal, Mahabubnagar District

..... PETITIONER

**AND**

1 The Secretary, Department of Home, Secretariat, Hyderabad
2 The Superintendent of Police Mahabubnagar, At Mahabubnagar
3 The Deputy Superintendent of Police Gadwal, at Gadwal
4 The Sub Inspector of Police (Rural) Gadwal at Gadwal

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of mandamus declaring the inaction of the respondents in not investigating the Crime No.41/04 on the file of P.S. Gadwal(Rural) as illegal, arbitrary, violative of the provisions of the scheduled Castes and The Scheduled Tribes (Prevention of Atrocities ) Act, 1989 besides being violative of Art. 14 of the Constitution of India and consequently direct the respondents to cause investigation immediately into the Crime No.41/04

**Counsel for the Petitioner: MR.A.RAVINDER REDDY**

**Counsel for the Respondents: GP FOR HOME**

The Court at the admission stage made the following:

**ORDER:**

Heard both sides.

The petitioner seeks a declaration that the alleged inaction on the part of the respondents in investigating Crime No.41 of 2004 on the file of Police Station, Gadwal (Rural) is arbitrary and illegal.

2. The petitioner states that he belongs to S.C. (Madiga) Community and eking out his livelihood as agriculture labourer on daily wages. On 28.05.2004, the petitioner along with five others went to work on check dam on the request of one Mr. Ravi of Paramala village. While carrying out work there, it appears that some of the villagers came to the place where the petitioner and others were working and abused them calling by caste and also beat the petitioner and others. In the circumstances, the petitioner lodged a complaint before the fourth respondent-Sub Inspector of Police (Rural), Gadwal. On the basis of the complaint, the fourth respondent registered Crime No.41 of 2004 on the file of P.S., Gadwal (Rural) under Section 3(1) (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (herein after referred to as the Act) and under Section 324 IPC against one Chinna Narasappa and seven others. However, the accused were not apprehended. It is alleged that respondents 2 and 3 failed to cause any investigation into Crime No.41 of 2004 deliberately to help the accused therein. In the circumstances, this writ petition is filed seeking the above relief.

3. The contention of petitioner is that as per the provisions of the Act, once a complaint is lodged the District Magistrate or the Sub Divisional Magistrate or any police officer not below the rank of the Superintendent of Police is bound to cause an enquiry and since no such enquiry has been caused and the accused have not been

apprehended, the inaction on the part of the respondents is liable to be declared as arbitrary, illegal and violative of provisions of the Act.

4. In pursuance of the notice issued by this Court, on behalf of respondents 2 to 4, the Sub Inspector of Police, Gadwal, filed counter affidavit stating that on the complaint of the petitioner dated 29.05.2004, a case in Crime No.41 of 2004 under Section 3 (1) (x) of the Act was registered against one Chinna Narasappa and 8 others. In pursuance thereof, the investigation was taken up by the Sub Divisional Police Officer, J.Ramachandran, on 02.06.2004. But after due investigation in the case, he closed the same as 'false' and also informed the same to the second respondent on 06.07.2004. Further instructions of the second respondent are awaited. Thus, it is contended that there is no inaction on the part of the respondents as alleged by the petitioner in causing investigation in Crime No.41 of 2004. The other allegations made by the petitioner as to the danger apprehended to the life of the petitioner in the hands of the accused in Crime No.41 of 2004 were also denied.

5. However, the stand taken by the respondents in their counter affidavit has been disputed by the petitioner. In the reply, it is stated by the petitioner that the plea of the respondents that the investigation was taken up on 02.06.2004 is absolutely incorrect and there is no communication to the petitioner or to the second respondent about any such investigation. The letter said to have been addressed to the second respondent by the Investigating Officer is only after filing the writ petition on 01.07.2004. It is also pointed out that the counter affidavit is silent about the notice issued to the petitioner dated 04.07.2004 which was served on him on 06.07.2004 directing him to appear before the Investigating Authority within three days to record his statement under Section 161 Cr.P.C.

6. A copy of the notice dated 04.07.2004 has been placed before this Court. As rightly pointed out by the learned counsel for the petitioner, in the said notice dated 04.07.2004, the petitioner was called upon to appear before the Investigating Officer within three days and also to

produce other witnesses to record the statements once again under Section 161 Cr.P.C. If that be so, it is un-understandable how the respondents have closed the investigation concluding that the allegations are false. The learned counsel for the petitioner states that in pursuance of the notice dated 04.07.2004, the statement of the petitioner who is the complainant has been recorded only on 06.07.2004.

6. In the circumstances, I am of the view that the stand taken by the respondents that they have already investigated into Crime No.41 of 2004 and the same has been closed cannot be accepted. Accordingly, the writ petition is disposed of a with a direction to the respondents to re-investigate into Crime No.41 of 2004 on the basis of the statement of the petitioner/complainant recorded on 06.07.2004 and the statements of other witnesses if any as well as any other material made available by the petitioner and to take further steps in accordance with law as expeditiously as possible. No costs.

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20.07.2004

VGB

**To**

1 The Secretary, Department of Home, Secretariat, Hyderabad
2 The Superintendent of Police Mahabubnagar, At Mahabubnagar
3 The Deputy Superintendent of Police Gadwal, at Gadwal
4 The Sub Inspector of Police (Rural) Gadwal at Gadwal

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